

6/7/06 Bd Mtg: Scott River-
Item__Deadline 5/10/06

From: Felice Pace <felice@jeffnet.org>
To: <commentletters@waterboards.ca.gov>
Date: Wed, May 10, 2006 9:10 AM
Subject: Response to State Board request for specific ideas on how to fix the Scott River Basin Plan Amendment and address Scott River flow issues

Klamath Riverkeeper
A Program of the Klamath Forest Alliance
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May 9, 2006

Tam Doduc, chairperson
And Members
State Water Resources Control Board
Via e-mail:
<mailto:commentletters@waterboards.ca.gov>commentletters@waterboards.ca.gov

SUBJECT: Response to request for provisions to fix the Scott River
Pollution Clean- Plan, Northcoast Basin Plan
Amendment and to address flow impairment in the Scott River Basin

Dear Ms. Doduc and Members of the Board:

You have requested specific suggestions on how to improve the implementation plan and specific recommendations on flow options that the State Water Board might take in the watershed. These are the responsive comments of the Klamath Riverkeeper.

First, we want to briefly summarize what is at stake. On behalf of Klamath Riverkeeper I have submitted to the State Board information on flows in the Scott River as measured at the USGS gage below Scott Valley. Corrected for differences in precipitation, flows have decreased significantly since adoption of the Scott River Adjudication in 1980 and the subsequent declaration by the SWRCB that the Scott River is fully appropriated. The situation is such that even in averagewater years - Fall Chinook salmon are not able to make it to spawning grounds in and above Scott Valley due to low flow barriers (see annual CDFG spawning surveys). In dry years Chinook are not able to reach the Valley and above and Coho salmon are delayed in their migration. The decrease in flows relative to precipitation is greater the dryer the year. The decrease corresponds to continued exploitation of groundwater. Between adoption of the Adjudication Decree and 2000, for example, 42 new irrigation wells were put into service in the bottoms of the Scott Valley (DWR database). Minimum flows necessary for fish migration identified as a water right in the Adjudication Decree - are now not being met during the critical late summer and fall in many years.

The bottom line is this, unless the progressive dewatering of the Scott River is stopped, Chinook and Coho salmon are likely to be extirpated from the majority of the Scott River Basin within a decade.

The State Water Board has both the opportunity and the legal obligation to



correct the errors and omissions of the Basin Plan Amendment approved by the North Coast Regional Board. The State Board also has an opportunity and obligation to address out-of-season diversion and irrigation and the impact of these widespread, chronic and well documented practices on the in-stream right established for fish. Here is how we at Klamath Riverkeeper believe those errors and omissions can be corrected and how the public trust salmon resource and other public trust resources can be protected from illegal activities:

1. The State Water Boards Division of Water Rights should review available information in order to determine the impact of groundwater pumping on Scott River flows and should recommend action the State Board can take to address all impacts identified. Particular attention should be directed to the Adjudication's delineation of groundwater which is interconnected to surface flows. In some places this line was placed immediately adjacent to the Scott River. The 1955 USGS and subsequent studies indicate that surface and groundwater are broadly interconnected in the Valley portion of the Basin. The evidence is strong that the Superior Court erred greatly in its narrow delineation of the line of interconnected groundwater. If more study is needed to determine groundwater pumping impacts, those studies should be conducted by the Division of Water Rights with full and equal participation by all interested parties and utilizing the best available information. If it is determined that groundwater interconnected with surface flow was improperly identified and inadequately addressed in the Scott River Adjudication, the State Board should inform the Siskiyou County Superior Court that the Adjudication is flawed and must be fixed.

2. The State Water Board should request that Siskiyou County impose a moratorium on new irrigation wells in the bottoms of the Scott River Valley until such time as the Board can determine the impact groundwater pumping is having on river flows and river water temperature. If Siskiyou County will not place a moratorium, the State Board should recommend to the governor and legislature legislation to impose such a moratorium.

3. The Division of Water Rights should investigate documented and wide-spread out-of-season irrigation diversion in excess of water rights and abuse of stockwater rights in the Scott River Basin, including the impact of these activities on minimum flows specified for salmon and other fisheries in the Scott River Adjudication. Klamath Riverkeeper has in depth knowledge of these practices gained over 30 years of observation and photo documentation. We are available to share this information with the State Board and your staff. If it is determined that out-of-season irrigation and improper use of stockwater rights are impacting water quality and beneficial uses, the State Board should take the appropriate steps to see that these practices end.

4. The State Board division of water rights should identify steps which other state agencies, including but not limited to the Department of Fish and Game, can take within existing laws, regulations and authorities, to address water quality impairments and negative impacts to beneficial uses associated with water management in the Scott River Basin. The State Board should specifically address the failure of CDFG to enforce requirements for by-pass flows on dams and diversions (see SF Chronicle Siembra articles for specifics) and how that failure is impacting flows

and water quality.

5. The State Board should ask the Regional Board to further investigate the connection between logging and road building on steep, unstable slopes and the excessive levels of sediment found in the Scott River and many other Northcoast forested watersheds. The order should include instructions to modify the Scott River Clean-Up Plan, if necessary, to reduce or eliminate large landslides and the catastrophic scouring and stream sedimentation resulting from logging and locating roads on steep, unstable and potentially unstable slopes. While granitic areas of the Basin have been adequately addressed (these are the portions addressed by Ms. Sommerstrom), the large deep (up to 130 feet of soil), perched (on very steep slopes) earthflows have not been adequately addressed. These landforms, not the granitics, are by far the main source of catastrophic, stream altering landslides that occur during major and even minor storm events. In this regard the State Board should use the empirical studies done by the USFS Klamath Forest and PSW Research Station on the impacts of the New Year 1997 storm event.

6. The State Board should ask the Regional Board to further investigate the connection between road maintenance practices in the Scott River Basin and the excessive sedimentation of the Scott River and to identify those road maintenance standards and practices which are needed to prevent delivery of sediment from native surface and gravel roads to streams. Klamath Riverkeeper has photo documented the chronic delivery of sediment to streams that result from the absence of any maintenance on most of the native and gravel surface roads as well as the delivery associated with wet weather heavy hauling on these roads.

One of your members is currently involved in negotiations to address the impacts of the Klamath River Dams on water quality and beneficial uses. Those talks have progressed to consideration of a global settlement for the Klamath River. This year the broad and devastating impacts of the Klamath River's water quality and related problems - reaching to San Francisco and Monterey in the South to all of Oregon and the border of Washington State in the North - have been dramatically demonstrated. These impacts can only end if - as the fishermen put it - the Klamath is fixed. But fixing the dams is not a silver bullet. The Klamath can not be fixed unless and until the water quality and related flow problems in the Scott and Shasta Rivers are addressed. Water quality and flows in these watersheds are primarily the responsibility of the State of California. The TMDL Clean-Up Plan Basin Plan Amendments are the proper and current opportunity for the State of California to begin addressing these issues and to redress the state's failure to act as water quality and beneficial uses in these watersheds and the Klamath River generally have declined dramatically. Proper action by the State Board now will pay dividends to future generations.

While taking the proper action now as is your responsibility will result in increased conflict in the short run, in the longer run proper action now to address the deficiencies of the Scott Clean-up Basin Plan Amendment will ultimately result in less conflict and will promote environmental and social justice and reconciliation in the Klamath River Basin. It is simply wrong that the rights and well being of thousands of people in communities along the Klamath River and up and down the coast continue to be sacrificed so that fewer than 100 farmers and ranchers in the Scott River Valley can

continue to operate outside the law and with significant and cumulatively increasing impacts on Public Trust Resources and the beneficial uses of water.

Klamath Riverkeeper urges the Board not to miss this opportunity. Please fix the Scott River Basin Plan Amendment as the down payment on your contribution to Fixing the Klamath.

Thank you for your consideration and for all your good work for the People and the Public Trust.

Sincerely,

(Via e-mail)
Felice Pace
For Klamath Riverkeeper

Cc: Regional Board, Interested Parties

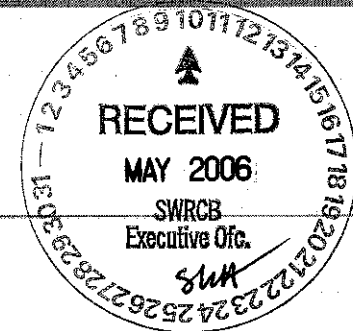
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"Won't you help to sing...these songs of Freedom?" -Bob Marley.

CC: "Ranjit Gill" <rgill@waterboards.ca.gov>, David Leland <dleland@waterboards.ca.gov>, <mailb@waterboards.ca.gov>, "Fred Blatt" <FBlatt@waterboards.ca.gov>, Catherine Kuhlman <ckuhlman@waterboards.ca.gov>

commentletters - Fixing the Scott TMDL - comment adendum

From: Felice Pace <felice@jeffnet.org>
To: <commentletters@waterboards.ca.gov>
Date: 5/10/2006 11:11 AM
Subject: Fixing the Scott TMDL - comment adendum



Dear Ms. Doduc and Board Members:

This is an addendum to our suggestions for how to fix the Scott Clean-Up Plan Amendment and address water rights.

1. We urge the State Board to take note that the Regional Board itself recognized that the Scott Clean-up Plan is inadequate. The record shows that they passed the Amendment to comply with the TMDL Consent Decree. But the Board was troubled and wanted the deficiencies addressed. To further that objective, after it approved the Amendment, the Regional Board passed a motion insturcting the Executive Officer to report back to the Board within three months concerning specific implementation issues. Here is the motion from the December 7, 2005 Regional Board Meeting:

"John Corbett moved to direct the Executive Officer to come back to the Regional Water Board within three months with a time line for the Regional Water Board to review and adopt documents pertaining to this agenda item, including monitoring programs, the MOU Schedule with Siskiyou, United Stated Forest Services, Bureau of Land Management, Resource Conservation District and other documents, as necessary. Mr. Corbett also authorized staff to reconvene an advisory committee, consisting of individuals who represent the Basin for the purpose of reviewing recommendations and technical data during the upcoming year. Dennis Leonardi seconded the motion. The Motion passed unanimously."

Two full months passed the Regional Board's deadline and to date the Executive Officer has not reported back as instructed by the Regional Board. In the meantime, the Siskiyou RCD, Scott Watershed Council and Siskiyou County Board of Supervisors have adopted a "groundwater monitoring plan" that will collect well level data for "5 to 10 years" in order "to establish a baseline." All indications are that there will be no effective effort to address the deficiencies in the Scott TMDL by those entities to which the Scott Amendment cedes control on critical issues. This, in our view, is a fatal flaw which will prevent timely acheivment of the clean-up which is needed to protect and restore beneficial uses. Unless the State Board fixes the Amendment and addresses the out-of-season irrigation and stockwater diversion abuses, the dewatering of the Scott will continue.

Felice Pace

for Klamath Riverkeeper